

Renumbered 5/12/2015

10-2-106 Feasibility study -- Feasibility study consultant.

- (1) Within 60 days of receipt of a certified request under Subsection 10-2-105(1)(b)(i), the county legislative body shall engage the feasibility consultant chosen under Subsection (2) to conduct a feasibility study.
- (2) The feasibility consultant shall be chosen:
 - (a)
 - (i) by the contact sponsor of the incorporation petition with the consent of the county; or
 - (ii) by the county if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the county; and
 - (b) in accordance with applicable county procurement procedures.
- (3) The county legislative body shall require the feasibility consultant to:
 - (a) complete the feasibility study and submit the written results to the county legislative body and the contact sponsor no later than 90 days after the feasibility consultant is engaged to conduct the study;
 - (b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and
 - (c) attend the public hearings under Subsection 10-2-108(1) and present the feasibility study results and respond to questions from the public at those hearings.
- (4)
 - (a) The feasibility study shall consider:
 - (i) population and population density within the area proposed for incorporation and the surrounding area;
 - (ii) current and five-year projections of demographics and economic base in the proposed city and surrounding area, including household size and income, commercial and industrial development, and public facilities;
 - (iii) projected growth in the proposed city and in adjacent areas during the next five years;
 - (iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city, including:
 - (A) culinary water;
 - (B) secondary water;
 - (C) sewer;
 - (D) law enforcement;
 - (E) fire protection;
 - (F) roads and public works;
 - (G) garbage;
 - (H) weeds; and
 - (I) government offices;
 - (v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed city;
 - (vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation; and
 - (vii) the fiscal impact on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county.
 - (b)
 - (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed city in the future that fairly

- and reasonably approximate the level and quality of governmental services being provided to the proposed city at the time of the feasibility study.
- (ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:
 - (A) the amount it would cost the proposed city to provide governmental service for the first five years after incorporation; and
 - (B) the county's present and five-year projected cost of providing governmental service.
 - (iii) The costs calculated under Subsection (4)(a)(iv), shall take into account inflation and anticipated growth.
- (5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.
- (6) If the results of the feasibility study or revised feasibility study do not meet the requirements of Subsection 10-2-109(3), the feasibility consultant shall, as part of the feasibility study or revised feasibility study and if requested by the sponsors of the request, make recommendations as to how the boundaries of the proposed city may be altered so that the requirements of Subsection 10-2-109(3) may be met.
- (7)
- (a) For purposes of this Subsection (7), "pending" means that the process to incorporate an unincorporated area has been initiated by the filing of a request for feasibility study under Section 10-2-103 but that, as of May 8, 2012, a petition under Section 10-2-109 has not yet been filed.
 - (b) The amendments to Subsection (4) that become effective upon the effective date of this Subsection (7):
 - (i) apply to each pending proceeding proposing the incorporation of an unincorporated area; and
 - (ii) do not apply to a municipal incorporation proceeding under this part in which a petition under Section 10-2-109 has been filed.
 - (c)
 - (i) If, in a pending incorporation proceeding, the feasibility consultant has, as of May 8, 2012, already completed the feasibility study, the county legislative body shall, within 20 days after the effective date of this Subsection (7) and except as provided in Subsection (7)(c)(iii), engage the feasibility consultant to revise the feasibility study to take into account the amendments to Subsection (4) that became effective on the effective date of this Subsection (7).
 - (ii) Except as provided in Subsection (7)(c)(iii), the county legislative body shall require the feasibility consultant to complete the revised feasibility study under Subsection (7)(c)(i) within 20 days after being engaged to do so.
 - (iii) Notwithstanding Subsections (7)(c)(i) and (ii), a county legislative body is not required to engage the feasibility consultant to revise the feasibility study if, within 15 days after the effective date of this Subsection (7), the request sponsors file with the county clerk a written withdrawal of the request signed by all the request sponsors.
 - (d) All provisions of this part that set forth the incorporation process following the completion of a feasibility study shall apply with equal force following the completion of a revised feasibility study under this Subsection (7), except that, if a petition under Section 10-2-109 has already been filed based on the feasibility study that is revised under this Subsection (7):

- (i) the notice required by Section 10-2-108 for the revised feasibility study shall include a statement informing signers of the petition of their right to withdraw their signatures from the petition and of the process and deadline for withdrawing a signature from the petition;
- (ii) a signer of the petition may withdraw the signer's signature by filing with the county clerk a written withdrawal within 30 days after the final notice under Subsection 10-2-108(3) has been given with respect to the revised feasibility study; and
- (iii) unless withdrawn, a signature on the petition may be used toward fulfilling the signature requirements under Subsection 10-2-109(2)(a) for a petition based on the revised feasibility study.